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**1301 EAST ALGONQUIN ROAD, SH5**  
**SCHAUMBURG, ILLINOIS 60196 U.S.A.**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT: Remboski, et al.  
US SERIAL NO.: 09/944,892  
FILED: August 31, 2001  
TITLED: VEHICLE ACTIVE NETWORK WITH RESERVED PORTIONS  
GROUP ART UNIT: 2667  
DOCKET NO.: IA00002

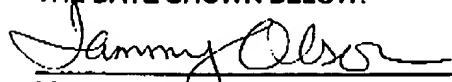
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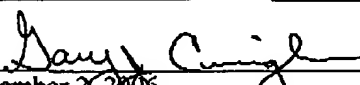
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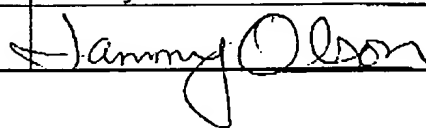
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<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	Application Number	09/944,892
	Filing Date	August 31, 2001
	First Named Inventor	Rcmboski, et al.
	Group Art Unit	2616
	Examiner Name	Afsar M. Qureshi
	Attorney Docket Number	IA00002
Total Number of Pages in this Submission		

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual	Gary J. Cunningham	Registration No.	33,488
Signature			
Date	November 2, 2006		

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Dated: November 2, 2006

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Docket No.: IA00002  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:

**Donald J. Remboski et al.**

Application No.: 09/944,892

Confirmation No.: 4080

Filed: August 31, 2001

Art Unit: 2667

For: Vehicle Active Network  
With Reserved Portions

Examiner: Afsar M. Qureshi

**REPLY BRIEF**

MS Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Please consider Appellants' reply brief as follows.

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At issue in this matter is the Examiner's erroneous §103(a) rejections over Matsuda in view of Bertin. More specifically, at issue is whether either Matsuda or Bertin, or the combination would teach or suggest use of an "active network" as claimed in claims 1, 11, and 18.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See, e.g. MPEP § 2143.

At a minimum, Matsuda in view of Bertin does not teach or suggest an active network that is a network including nodes capable of performing custom operations on the messages that pass through the nodes; does not require a central server or computing resource; are aware of the contents of the messages transported and can participate in the processing and modification of the message while they travel through the network. As the Board is aware, during examination, the USPTO must give claims their broadest reasonable interpretation. This means that the words of the claim *must be given their plain meaning* unless applicant has provided a clear definition in the specification. See, MPEP §2111.01 and *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989), *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1372, 69 USPQ2d 1857 (Fed. Cir. 2004).

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Here, the Appellants provided actual evidence (in the form of an affidavit and reference material) to support that the plain meaning of the term “active networks” is a network including nodes capable of performing custom operations on the messages that pass through the nodes; does not require a central server or computing resource; are aware of the contents of the messages transported and can participate in the processing and modification of the message while they travel through the network.

In essence, the Examiner errs in the application of the law – claim terms are attributed their ordinary and plain meaning, unless specifically defined. Thus, the Examiner’s repeated argument that Appellants did not specifically define the term “active network” is not relevant, and Appellants *agree* that no specific definition is included in the specification. What is relevant to the patentability of these claims, then, is the ordinary and plain meaning of “active network” – and the Examiner has not countered Appellants’ evidence of the ordinary and plain meaning. *Appellants agree with the Examiner* that it would be “improper for the Examiner to give words of the claims special meaning when no such special meaning has been defined by the written description” (p. 9, Examiner’s Answer).

Since the Examiner does not allege that either Matsuda or Bertin, alone or in combination, teach a network meeting the description of the active network using the plain meaning of the term, the rejection must fall. In addition, Appellant is clearly not “reading limitations into the claim” – Appellant is arguing that the Examiner has failed to prove that any reference teaches or suggests the claim limitations.

Furthermore, *actual evidence* can rebut a *prima facie* case and *actual evidence*, not mere attorney argument, has been provided to the Examiner, and the Board. Rather than provide *evidence* to counter, the Examiner simply argues that the affidavit is not part of the claims. Appellant *agrees* that the affidavit is not part of the claims, but the affidavit *provides*

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*actual and uncontroverted evidence of the plain meaning* of "active network". Thus, the record provides *clear evidence* to support the ordinary and plain meaning of "active network", while the Examiner has *no evidence* whatsoever to support any other definition of the term.

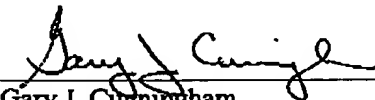
In light of the ordinary and plain meaning of the term "active network," it is apparent that neither the "multiplex bus 18" of Matsuda nor any structures taught by Bertin read on the claim term and therefore the Examiner's rejection must fall. Additionally, Appellant presented other arguments in their direct brief, but for the sake of brevity, Appellant will not restate each argument here.

Withdrawal of all rejections and prompt passage to issuance is requested.

Respectfully submitted,

Remboski, et al.

by:

  
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